REMARKS/ARGUMENTS

Claims 1-32 are currently pending in the present application. Claims 1-4, 6, 7, 11-14 and 16-18 have been rejected under 35 U.S.C. 102(e) as allegedly being anticipated by U.S. Patent No. 5,634,006 issued to Baugher et al. Claims 5, 8-10, 15, 19-24 and 26-32 have been rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Baugher in view of U.S. Application Publ. No. 2002/0152319 to Amin et al. Applicant respectfully traverses the rejection.

With regard to the Examiner's comments starting at page 2 of the Office Action, it appears that the Examiner misunderstood the comments of Applicant's Attorney during the phone interview of June 13, 2005, as well as the intended effect of the claim amendments in the response filed subsequent to the amendment. Indeed, Applicant amended the claims to make clear that the aggregate volume of data transfer is monitored with respect to each individual user. This is readily apparent from the language of claim 1 which states: monitoring, over a given time interval, the aggregate volume of data transfer corresponding to each user of a plurality of users. In addition, claim 1 is also clear that the threshold determination is made with respect to the aggregate data transfer associated with a given user, not a group of users in the aggregate.

By this Response, Applicant has further amended claims 1, 11, 23 and 24 to clarify that detecting the threshold or bandwidth utilization milestone occurs relative to a given time interval, such as a week, or month. As distinguished from Baugher,

embodiments of the present invention allow a network service provider, for example, to monitor the aggregate volume of data transfer associated with a user over a period of time (e.g., a month), and degrade (or otherwise affect) network access if the volume of data transfer in that period exceeds a threshold. As discussed in more detail below, Baugher discloses a system that allocates bandwidth to individual flows based on requested QoS parameters and the current load (i.e., currently utilized and allocated bandwidth or throughput) on the network. Claim 11 has also been amended to state that the aggregate volume of data transfer characterizes the volume of data corresponding to past and current data flows over the given time interval.

Baugher, neither alone or in combination with Amin, discloses or suggests the claimed subject matter. Baugher discloses methods and systems that reserve bandwidth for individual data flows initiated by hosts on a token ring network. Specifically, the system of Baugher operates to reserve or allocate bandwidth to individual data flows based on requested QoS parameters, current loading conditions, and existing allocations in the network. Baugher does not disclose a system that affects a characteristic associated with network access after the aggregate volume of data transfer within a given time interval corresponding to a given user crosses a threshold. Amin discloses the deployment of accounting and QoS mechanisms across a computer network. Neither Baugher nor Amin disclose methods or systems that monitor aggregate data transfer for individual users, and affect a characteristic of the network access provided to a first user after the aggregate data transfer within a given time interval corresponding to the first user crosses a threshold value. Furthermore, as to claim 11, Baugher does not disclose a system that allocates bandwidth based on threshold

determinations relating to past and current data flows. Rather, as discussed herein, Baugher bases allocation decisions based on current loading and allocation conditions.

A detailed examination of the allegations in the Office Action is set forth below.

In the Office Action of March 11, 2005, the Examiner alleges that Baugher teaches the monitoring step. See March 11, 2005 Office Action at 2. However, the cited passage entitled "Throughput" actually refers to data rate, not aggregate volume of data transfer, because it is expressed as a number of bytes transmitted "per second" over a given time interval. See Baugher, Col. 5, lines 47-51. Aggregate volume of data transfer refers to the number of bytes transferred over the given time interval corresponding to all flows within a given time interval. Furthermore, as Baugher states, the QoS parameters referred to in this section are QoS parameters specified upon initiation of a connection. See Col. 6, lines 34-41.

In the Office Action of March 11, 2005, the Examiner also alleges that Baugher teaches the detecting and affecting steps of claim 1. See March 11, 2005 Office Action at 2. However, the passage of Baugher relied on by the Examiner does not teach this step. Rather, the cited passage merely discloses that stations can attempt to reserve bandwidth, de-allocate existing reservations, and coordinate these actions with other stations by accessing the MIBs of the other stations. That MIB objects can notify a process when a variable crosses a threshold does not disclose the teaching and detecting steps of the claimed subject matter. Baugher goes on to teach that bandwidth is allocated to a given data flow based on these requested QoS parameters, and the

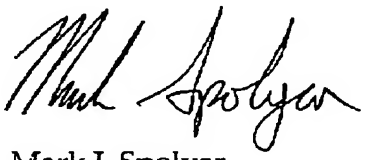
allocations that have already been made and current loading conditions on the network.

Still further, the Examiner alleges that Baugher teaches the subject matter of claim 4. However, the passage relied on by the Examiner actually underscores the differences between Baugher (operates on a flow-by-flow basis and allocates bandwidth based on availability) and the claimed subject matter, which is directed to affecting network access based on aggregate volume of data transfer over a given time interval. For example, as Baugher teaches (see Col. 8, starting at line 25), when a requesting station attempts to reserve bandwidth for a flow, an allocation decision is made based on the current loading conditions of the network (in other words, how much bandwidth (throughput capacity) is currently being used, and how much bandwidth has been allocated to the requesting station. This reservation may fail because the requesting station may have reserved a total amount of bandwidth that exceeds an allocation, or the total bandwidth consumed by all stations may prevent a requested allocation from being fulfilled. Again, however, bandwidth refers to a current rate (usually expressed as bits per second) that can be allocated among stations. However, this has no relation to the volume of data transfer referred to in the claims, which bases its affect on network access based on the aggregate volume of data that has been transferred over a given time interval, not the current bandwidth consumed by a given station or stations, as taught by Baugher. In other words, Baugher allocates bandwidth to a given data flow based on current loading and allocation conditions. The claimed invention, however, can be used to affect network access after a threshold volume of data has been transferred. Baugher does not disclose or suggest this claimed subject matter.

In light of the foregoing, Applicant believes that all currently pending claims are presently in condition for allowance. Applicant respectfully requests a timely Notice of Allowance be issued in this case. If the Examiner believes that any further action by Applicant is necessary to place this application in condition for allowance, Applicants request a telephone conference with the undersigned at the telephone number set forth below.

Date: December 29, 2005

Respectfully Submitted,
LAW OFFICE OF MARK J. SPOLYAR
By



Mark J. Spolyar
Reg. No. 42,164

Customer Number: 30505
Law Office of Mark J. Spolyar
38 Fountain St.
San Francisco, CA 94114
415-826-7966
415-480-1780 fax